

**REMARKS****I. Status of Claims**

Claims 21-22 and 28-33 are pending in the application. Claims 1-21 and 23-27 were previously canceled.

**II. Withdrawal of Objections and Rejections**

Applicants thank the Examiner for withdrawing the objection to claims 23-24 because of informalities in light of Applicant's cancellation of the claims.

Applicants also thank the Examiner for withdrawing the rejections of:

1. Claims 21-23 and 26-33 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement in light of Applicant's amendment of the claims;
2. Claims 21-23 and 26-33 under 35 U.S.C. 112, first paragraph, because of the specification, while being enabling for plants transformed with a nucleic acid encoding SEQ ID NO: 1, does not reasonably provide enablement for any non-naturally occurring non-halophyte plant that accumulates sodium in its vacuoles is withdrawn in light of Applicant's amendment of the claims; and
3. Claims 23, 25 and 29-30 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicant regards as the invention is withdrawn in light of Applicant's amendment of the claims.

### **III. Double Patenting**

Claims 21-22 and 28-32 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-4, 7, 9-11, 16 and 20 of U.S. Patent No. 7,041,875.

Applicants respectfully traverse the rejection and its supporting remarks. However, in the interests of expediting prosecution, Applicants have filed a terminal disclaimer. Both the instant application and the cited patent are owned by the inventors, which are the same for both the application and cited patent. A terminal disclaimer to overcome non-statutory obviousness type double patenting is therefore available under MPEP § 804.02(II).

### **IV. Objection**

Claim 33 is objected to as being dependent upon a rejected base claim. In view of the terminal disclaimer submitted herewith, Applicants respectfully assert that this objection is now moot.

### **V. Conclusion**

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. **03-1952** referencing docket

no. **595792000121**. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: January 29, 2008

Respectfully submitted,

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